

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Cordell Anthony Coke, *et al.*,

Plaintiffs,

v.

Case No. 13-13374

Delta Airlines, Inc.,

Sean F. Cox

United States District Court Judge

Defendant.

ORDER

Plaintiffs are two former baggage handlers who were employed by Defendant Delta Airlines, Inc. (“Delta”). They were both terminated in 2011, after their security badges, which are necessary for them to perform their jobs, were revoked by a third party after criminal charges were brought against them. They were both indicted and charged with being involved in a drug conspiracy that allegedly involved smuggling drugs into Detroit Metropolitan Airport. Plaintiffs were both ultimately acquitted of the criminal charges after a jury trial in 2013, but Delta declined to rehire them. In this action, Plaintiffs alleged that Delta discriminated against them based on their national origin when it terminated them and when it decided not to re-hire them. They also alleged that the decision not to rehire them violated public policy.

The matter is came before the Court on Defendant Delta’s Motion for Summary Judgment. In an Opinion & Order issued on November 14, 2014, this Court granted Delta’s motion and dismissed this action.

Thereafter, Delta filed a Bill of Costs and the Clerk of the Court taxed costs in the amount of \$1,094.85. (Docket Entry No. 24). Plaintiffs objected to the costs taxed, claiming,

among other things, that they are indigent and unable to pay the costs taxed. Delta responded to the objections.

The Court finds that the issues have been adequately presented in the parties' briefs and that oral argument would not aid the decisional process. *See* Local Rule 7.1(f)(2), U.S. District Court, Eastern District of Michigan.

Fed.R.Civ.P. 54(d) provides that "costs – other than attorney's fees – should be allowed to the prevailing party" unless a federal statute or court order provides otherwise. While there is a presumption in favor of awarding costs, the rule allows a denial of costs at the discretion of the trial court. *Singleton v. Smith*, 241 F.3d 534, 539 (6th Cir. 2001). Among the factors that a district court can consider in determining whether to award costs are the losing party's good faith and the indigency of the losing party.

Although Plaintiffs did not survive summary judgment, the Court concludes that the litigation was taken in good faith. Moreover, after considering the declarations filed by Joesph and Coke, the Court concludes that their inability to pay also weighs against an award of costs in this particular action.

Accordingly, the Court hereby SUSTAINS Plaintiffs' objections to the taxed costs and ORDERS that no costs shall be taxed in this action.

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: February 27, 2015

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PROOF OF SERVICE

I hereby certify that a copy of the foregoing document was served upon counsel of record on February 27, 2015, by electronic and/or ordinary mail.

S/Jennifer McCoy_____

Case Manager